



## TALBOT COUNTY BOARD OF APPEALS

### **APPLICATION PROCEDURE FOR: CRITICAL AREA VARIANCE**

**This Application is limited to the following activities: a.) Impervious coverage limitations, b.) Construction activities within the 100 foot shoreline development buffer, c.) Forestry.**

Please read the attached material thoroughly. The documents in the application packet should be completed and returned to the Office of Planning and Zoning. The filing fee is \$700.00, which includes a \$400.00 review fee & a \$300.00 deposit for advertising. Any portion of the deposit not utilized will be returned. Checks shall be made payable to **Talbot County**, Maryland.

At the time the completed application is returned with all forms signed and dated, dates will be scheduled for your hearing and sign posting and other pertinent dates. The applicant/agent is responsible for noting these dates and complying with them. Direct any questions to Chris Corkell, Administrative Assistant to the Board of Appeals Office at (410) 770-8040.

1. **Application for Appeal:** Complete the "Purpose of Appeal". This informs the Board what the application is for. You may attach a typewritten sheet if additional space is needed. Please give a **detailed description** of your request.
2. **Variance Requirements:** This portion of the application sets forth the legal findings on which the Board of Appeals will base their decision. Please respond in writing to each of the noted requirements, do not leave any questions unanswered. The Board of Appeals uses this information to help them better understand your request. These documents contain questions you will be required to address during the hearing. They are the basis for the appeal.
3. **Adjacent Property Owners:** The Applicant/Agent is responsible for obtaining the names and addresses of all property owners contiguous to the subject property as stated in Article XIV, § 190-112 C of the Talbot County Code. For purposes of this Section, contiguous means all properties adjacent to and opposite said property, measured at right angles to any intervening road or street. Said mailed notice shall be directed to the address to which the real estate tax bill on property is sent. This information can be obtained by contacting Maryland Department of Assessment and Taxation at 410-819-5920 or on their web site at <http://www.dat.state.md.us>. A copy of the tax map is needed with subject property highlighted.  
  
**Water Front Property**  
For parcels fronting on the water, contiguous property owner(s) also include owners of property within 1,000 feet of the subject property, whose line of sight to the subject property is entirely over water.
4. **Article XIV, § 190-112 A Notification:** This statement informs the Applicant/Agent when and where a sign to be posted. Should two signs be necessary, the Planning Office will inform the Applicant/Agent and posting locations will be designated.
5. **Sign Maintenance Agreement:** This agreement is signed by the Applicant/Agent. The sign is to be continuously maintained in a conspicuous location on the property for 15 days prior to the hearing and returned to the Planning Office within 5 days after the hearing date, or a substantial fine may be imposed. See insert in this package for posting of the sign.
6. **Location Directions:** The Applicant/Agent is responsible for providing detailed directions to the property in question.
7. **Site Plan:** The applicant is responsible for preparing a site plan which includes: dimensions of the property, location of all existing buildings, well, septic, sewage disposal area, driveways, tidal waters, wetlands with appropriate buffers, 100' Shoreline Development Buffer line, tree lines and proposed additions showing setbacks from property lines. Show names of adjoining roads, streams and bodies of water. Show measurements of the structure proposed, also show distance from the structure to the closest point of property line requiring a variance. The site plan must be drawn to scale. Submit (8) copies of your site plan for your project along with \*(1) additional copy if within the 100' buffer and (1) additional copy if property is located on a State Highway.

\*If variance is within the 100' Shoreline Development Buffer or exceeds the allowable impervious Surface coverage then you must fill out an application for Critical Area Variance.

8. **Written Acknowledgement:** When the Applicant is someone other than the owner of the property for which the variance is requested, the Applicant shall attach to the application a letter of authorization from the owner that he/she has reviewed the application and concurs with its content.

9. **Incomplete Application:** The application shall be delivered to the Talbot County Board of Appeals/Talbot County Planning Office. If the application is incomplete in any respect, it will be returned to the applicant, and shall not be considered filed with the Department. All required Federal, State and/or local permits or approvals must be obtained prior to application submittal.
10. **Covenants:** If your property has a covenant please provide a copy when application is submitted to this office.

**INFORMATIONAL PURPOSES ONLY FOR CRITICAL AREA VARIANCE:**

**Public Hearing Notice:** Public notice shall be given for a public hearing on an application for a variance by the Board of Appeals in accordance with the provisions set forth in Article XIV, § 190-112B of the Talbot County Code.

**Site Visit:** A majority of the members of the Board of Appeals shall be required to visit the site for which the variance is requested before a hearing. All structures and piers must be staked when application is submitted to this office. However, a decision on a variance shall be decided upon the basis of the evidence of record.

**Recommendation of Planning Office:** Before deciding any application for a variance the Board of Appeals shall seek the recommendation of the Planning Office. The Planning Office shall concern itself with the necessary findings when formulating its recommendations for a variance. The recommendations shall be considered by the Board of Appeals, and shall become a part of the record but shall not be binding upon the Board of Appeals. The Board of Appeals may request from the Planning Office such technical service, data, or factual evidence as will further assist the Board of Appeals in reaching decisions.

**Board of Appeals Conditions of Approval:** In granting variances, the Board of Appeals may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surroundings properties. Violations of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and shall be subject to the provisions of Article XV, § 190-113 thru § 190-123 of the Talbot County Code and at the discretion of the Board of Appeals after notice and hearing, shall be grounds for termination or revocation of the variance.

**Variance Time Limited:** The Board of Appeals may impose a time limit within which a variance must be put into effect.

**Board of Appeals Decision:** The decision and supporting findings and any conditions attached to the decision shall be entered and become a part of the written record of the variance.

**New Application:** Following the denial of a variance, no application for a variance for the same or substantially the same matter shall be filed within one (1) year from the date of denial. An application for a variance may be withdrawn prior to advertisement of the hearing without prejudice. In the event that a variance application is withdrawn subsequent to advertisement of the public hearing, the applicant shall be precluded from filing another request for a variance for the same or substantially the same matter and condition for six (6) months.

The Administrative Assistant to the Board of Appeals may not give advice with regard to this application nor is she permitted to assist in the preparation.

\*\*\*\*\*  
**This original package must be returned with original signatures and dates, you do not need to make additional copies of this package. The only additional copies required will be site plans, floor plans, elevation drawings and miscellaneous exhibits.**

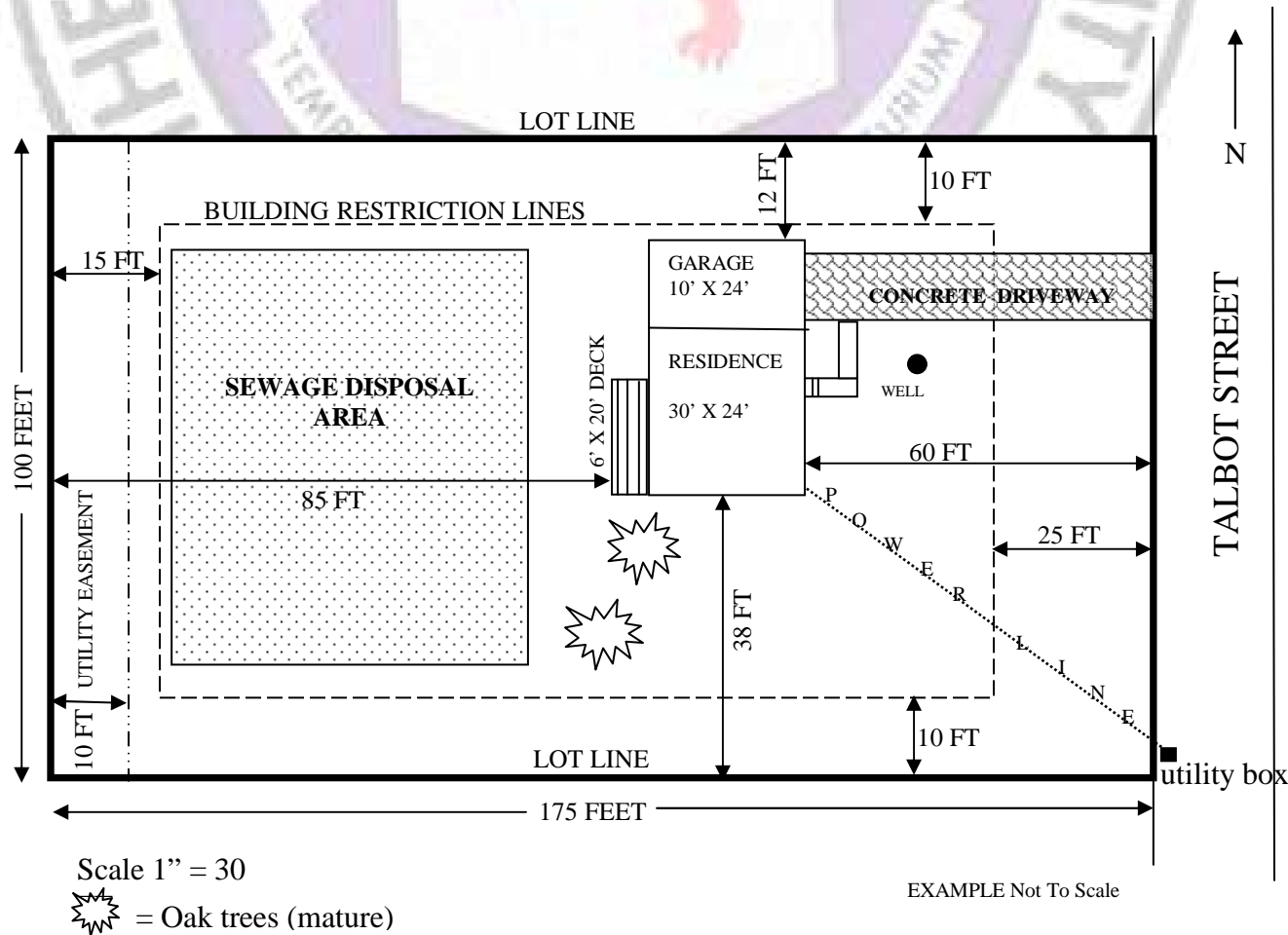


RESIDENTIAL VARIANCES & SPECIAL EXCEPTIONS

SITE PLAN REQUIREMENTS

- Drawing must be to scale. The scale of the drawing and an arrow showing a direction of North, must be noted on the plan.
- Show all boundary lines and lot size.
- Location and dimensions and use of all existing and proposed buildings and structures on the site. Distances from property lines, or setback (setbacks from tidal and non tidal wetlands, 100 foot shoreline development buffer from Mean High Water, streams, steep slopes, state highway, etc.,) to the proposed structure. Measurements need to be taken from the closest point of the structure. Measurements from decks only if structurally connected to the dwelling. Show streams and label bodies of water.
- Show location of underground power lines and all other utility lines & boxes.
- Show forest cover on site, individual standing mature trees and all areas of forest to be cleared.
- Location, name or number of all streets and alleys adjacent to the site. Show any on site or off site easements or private roads that provide access between the site and public road.
- Location of on-site parking and driveways (provide space for at least two cars).
- Show location of well and proposed or existing location of septic tank and drain field (and reserve drain field), as specified by the Health Department.

EXAMPLE SITE PLAN





Petitioners \_\_\_\_\_  
Notified

Applicant's/Agent's Signature

Revised: 11/02/05



Name(s) & Addresses of the adjacent property owners. (Article XIV, § 190-112 C) of the Talbot County Code.

Name and Address	Map	Grid	Parcel & Lot #

Applicant Signature

Date





**TALBOT COUNTY BOARD OF APPEALS**  
**"CRITICAL AREA VARIANCE REQUIREMENTS"**

Appeal No. \_\_\_\_\_

Hearing Date: \_\_\_\_\_

**Chapter 190 Zoning – Talbot County Code**

Power of the Board of Appeals – see Chapter 190, Article XIV  
Article XIV, § 190-104 - Variances

**Variances:** To authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance shall not be granted unless and until the applicant has demonstrated that:

The applicant for a variance shall have the burden of proof which shall include the burden of going forward with the evidence and the burden of persuasion to all questions of fact, which are to be determined by the Board of Appeals.

- (a) Special conditions or circumstances exist that are peculiar to the land or structure such that a literal enforcement of the provisions of this Ordinance result in unwarranted hardship to the property owner;

**Applicant Response:**

---

---

---

---

- (b) A literal interpretation of this Ordinance will deprive the property owner of rights commonly enjoyed by other property owners in the same zone;

**Applicant Response:**

---

---

---

---

- (c) The granting of a variance will not confer upon the property owner any special privilege that would be denied by this Ordinance to other owners of lands or structures within the same zone; and

**Applicant Response:**

---

---

---

---

(d) The variance request is not based on conditions or circumstances which are the result of actions by the property owner nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property;

**Applicant Response:**

(e) Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance;

**Applicant Response:**

(f) The variance shall not exceed the minimum adjustment necessary to relieve the unwarranted hardship; and

**Applicant Response:**

(g) The granting of the variance will not adversely affect water quality or adversely impact fish, wildlife or plant habitat, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law, the Talbot County Critical Area Program and the Critical Area provisions of this Ordinance.

**Applicant Response:**

Note: Within the Critical Area, if a request for a variance arises regarding nonconforming lots of record, the applicant must demonstrate and the Board of Appeals must find that criteria [a] through [f] above have been met and further that, due to the pattern of lot ownership, it is not possible to reconfigure or consolidate lots so as to permit compliance with this Ordinance.

The Board’s action will be predicated upon the applicant’s compliance with the above.

Date

Signature of Applicant or Designated Agent

**References:**

- 1. Talbot County Comprehensive Plan
- 2. Talbot County Code
- 3. File

**All structures and piers must be staked out prior to the Board’s site visit.**







**Site Visits:** A majority of the members of the Board of Appeals shall be required to visit the site before a hearing. However, a decision on an appeal before the Board of Appeals shall be decided upon the basis of the evidence of the record.

**Building Permit:** If the Board of Appeals grants your request and upon compliance of any conditions imposed you may then apply for your building permit. Permit Applications need to be submitted to Talbot County Permits & Inspections Office.

**Decision:** A written decision will be prepared containing a statement as to the findings of fact and the conclusions of law upon which such decision is based. The Board's Attorney will render a written decision within 30 days after completion of the hearing. Any person aggrieved by any decision of the Board may appeal the same to the Talbot County Circuit Court within thirty (30) days of the Board's written decision.